IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.347 OF 1994

Mrs.Shantabai Laxminarayan Rathi ...Petitioner

vs.

Shri.Kishorchandra Gulabchand Dalal. ...Respondent.

Mr.M.L.Patil, for Petitioner.

CORAM: D.K.DESHMUKH,J.

DATED: 6th April, 2005.

P.C.:-

1. By this petition, the order appointing the guardian ad litem is challenged. From the record, it appears that the application was filed on 25.6.1993 for appointing guardian ad-litem. That application was decided on 13.12.1993. A grievance made is that the application was decided without granting the petitioner an opportunity to file his reply. Because on 13.12.1993 the case was fixed before the Court and when the Advocate appearing for the petitioner

went to the Court at 12.45 p.m., he found that the order has already been passed. However, it is not disclosed as to when application dated 25.6.1993 was filed in the Court, to which date the application was adjourned, how many times the application was fixed up for filing reply by the petitioner. It is contended that the order appointing the Guardian ad-litem was made when the proceeding of the suit was stayed by the Appeal Court. However, copy of the order of the Appeal Court is not produced. In the absence of copy of the order of the Appeal Court, the statement made in the petition about that order cannot be accepted. Then, it is submitted that in some other proceedings between the parties, an application was made for appointing guardian ad litem, but that application was rejected. But again copy of that order is not produced. No reason is disclosed for not producing the copy of the order. This petition is pending since 1994. For last 11 years, the petitioner has not done anything to get copies of the orders on which the petitioner was relying in support of his contention.

2. Taking overall view of the matter therefore, in my opinion, there is no substance in the petition. Really speaking filing of such petition without placing relevant documents on record itself amounts to abuse of process of court. The petition is therefore, rejected.